

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEBRASKA

IN RE CATTLE AND BEEF ANTITRUST
LITIGATION,

Plaintiff,

vs.

JBS S.A., et al;

Defendant.

8:22CV204

ORDER

Plaintiff Cattle and Beef Antitrust Litigation (Antitrust Litigation) has filed a status report asking the Court to hold the hearing scheduled for February 8, 2023, regarding Nebraska Beef's compliance with the court's Discovery Order. ([Filing No. 39](#)). Antitrust Litigation states that based on Nebraska Beef's status report provided to Antitrust Litigation, "it appears that Nebraska Beef is actively engaged in efforts to comply with the subpoena. However, Nebraska Beef has still not provided formal amended responses to the subpoena, or information regarding the timing and volume of any production as required by the Discovery Order." ([Filing No. 48, at CM/ECF p. 3](#)). Counsel for Antitrust Litigation, who is located in California, requests leave to attend the conference on February 8, 2023 by videoconference.

The court will re-schedule the February 8 hearing to be held by videoconference. But the court ordered: "Nebraska Beef's full and complete response to Requests 2, 3, 4, 5, 6, 7, 8, 9, 10 (a) and 10(b) shall be served on or before January 17, 2023." ([Filing No. 39, at CM/ECF p. 34](#)). That deadline was extended to January 25, 2023, and then to January 27, 2023. ([Filing Nos. 46](#) and [47](#)). However, based on the status report filed by Antitrust Litigation, Nebraska Beef had not complied with the Discovery Order as of January 31, 2023. Nebraska Beef has not communicated with the court to request an additional extension of the discovery deadline, and it has not otherwise explained its noncompliance with the court-ordered deadline.

So, the hearing will go forward by videoconference on February 8, 2023. A representative(s) of Nebraska Beef must attend the hearing and explain, under oath, Nebraska Beef's efforts to comply with the Discovery Order to date, why it failed to comply with the disclosure deadline set by the court, the current state of collecting and disclosing the discovery ordered, and if that disclosure is not complete by February 8, 2023, when it will be.

If Nebraska Beef cannot state, under oath, that it has fully complied with the Discovery Order as of the February 8, 2023 hearing, or if Antitrust Litigation disputes any statement of full compliance, an evidentiary hearing will be held to determine whether Nebraska Beef has fully complied with the Discovery Order, and whether sanctions under Rule 37(b)(2)(A)(vii) and/or 37(b)(2)(C) should be ordered.

IT IS ORDERED:

- 1) The hearing scheduled for February 8, 2023 will be held by videoconference. Instructions for attending will be separately filed.
- 2) An evidentiary hearing to determine whether Nebraska Beef has fully complied with the Discovery Order, and whether sanctions under Rule 37(b)(2)(A)(vii) and/or 37(b)(2)(C) should be ordered, will be held before the undersigned magistrate judge on February 22, 2023, at 9:30 a.m. in Courtroom No. 2 of the United States Courthouse, Omaha, Nebraska, with hearing briefs due on or before February 17, 2023. Plaintiffs' counsel, counsel for Nebraska Beef, a Nebraska Beef representative(s), and any necessary witnesses shall be present at the hearing.

Dated this 2nd day of February, 2023.

BY THE COURT:

s/ Cheryl R. Zwart
United States Magistrate Judge